

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

KEVIN WAYNE BENNETT,

Petitioner,

v.

// CIVIL ACTION NO. 1:10CV88  
CRIM. ACTION NO. 1:08CR78-3  
(Judge Keeley)

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. 11)**  
**AND DISMISSING 28 U.S.C. § 2255 PETITION WITH PREJUDICE**

On June 2, 2011, the Honorable David J. Joel, United States Magistrate Judge, entered a Report and Recommendation ("R&R"), concluding that this 28 U.S.C. § 2255 petition filed by the pro se petitioner, Kevin Wayne Bennett ("Bennett"), should be dismissed. Bennett filed no objection to the R&R, and the time to do so has expired. Accordingly, the Court **ADOPTS** the R&R (dkt. 11) in its entirety, **DENIES** the petition for a writ of habeas corpus, and **DISMISSES** this case **WITH PREJUDICE**. The Court declines to issue a certificate of appealability because Bennett raises no colorable claim of denial of a constitutional right.

It is so **ORDERED**.

The Court directs the Clerk to prepare a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner via certified mail, return receipt requested.

DATED: July 18, 2011.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE